

1                                   **IN THE UNITED STATES DISTRICT COURT**  
2                                   **FOR THE DISTRICT OF ALASKA**

3  
4           UNITED STATES OF AMERICA,

5                                   Plaintiff,

6                                   v.

Case No. 3:23-cr-00071-SLG-KFR

7           WILLIAM BENJAMIN WALSTON,

8                                   Defendant.  
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10                           **FINAL REPORT AND RECOMMENDATION UPON A PLEA OF GUILTY**

11           Upon Defendant's request to enter a guilty plea, pursuant to Rule 11 of the  
12           Federal Rules of Criminal Procedure, to Count 1 of the Indictment, charging a  
13           violation of 21 U.S.C. § 841(a)(1), Attempted Distribution of a Controlled Substance,  
14           [Doc. 2], the District Court referred this matter to the Magistrate Judge, with the  
15           written and verbal consents of Defendant, counsel for Defendant, and counsel for  
16           the United States.<sup>1</sup>

17           Thereafter, the matter came before this Court for a hearing on Defendant's  
18           guilty plea, in full compliance with Rule 11, Federal Rules of Criminal Procedure, in  
19           open court and on the record.

20           In consideration of that hearing and the colloquy made by Defendant under  
21           oath, on the record, in the presence of counsel, and the remarks of the Assistant  
22           United States Attorney,

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26           <sup>1</sup> The Indictment charges a violation of 21 U.S.C. § 841(a)(1), (b)(1)(A). Under the terms of  
27           the plea agreement, Defendant agreed to plead to the offense described in 21 U.S.C. §  
28           841(a)(1), but to the penalty found in (b)(1)(B) of that section, thereby reducing his  
            potential term of imprisonment from 10-life to 5-40 years. Defendant also agreed in the  
            Factual Basis to a drug quantity sufficient to trigger the penalty found in (b)(1)(A).

1           **A. I make the following FINDINGS – that Defendant understands:**

- 2           ☒ That any false statements made by Defendant under oath may later be  
3           used against him in a prosecution for perjury;
- 4           ☒ The right to persist in a plea of not-guilty;
- 5           ☒ The consequences of not being a United States citizen;
- 6           ☒ The nature of the charges against Defendant;
- 7           ☒ The loss of certain federal benefits;
- 8           ☒ The maximum possible sentence, including imprisonment, fine,  
9           supervised release, and any applicable mandatory minimum sentence;
- 10          ☒ The Court's authority to order restitution;
- 11          ☒ The mandatory special assessment;
- 12          ☒ Any applicable forfeiture;
- 13          ☒ The right to a speedy and public trial by jury;
- 14          ☒ The right to be represented by counsel and, if necessary, to have the  
15          Court appoint counsel at trial, and at every other stage of the  
16          proceedings;
- 17          ☒ The right to: confront and cross-examine adverse witnesses, to remain  
18          silent, to testify and present evidence, and to compel the attendance of  
19          witnesses;
- 20          ☒ That a plea of guilty operates as a waiver of trial rights;
- 21          ☒ That Defendant knowingly, intelligently, and voluntarily waives all right  
22          to appeal or collaterally attack (except on the grounds of ineffective  
23          assistance of counsel and the voluntariness of his plea); and
- 24          ☒ That in determining a sentence, the Court's obligation to calculate the  
25          applicable sentencing guideline range pursuant to the Sentencing  
26          Guidelines promulgated by the United States Sentencing Commission  
27          and to consider that range, as well as departures under the Sentencing  
28          Guidelines, and variances under 18 U.S.C. §3553(a).

1           **B. I further FIND:**

- 2           1. Defendant is competent to enter an informed plea;
- 3           2. Defendant is aware of his rights and has had the advice of legal counsel;
- 4           3. That the plea of guilty by Defendant has been knowingly and voluntarily
- 5           made and is not the result of force, threats, or coercion;
- 6           4. Any agreements or promises which induced the plea of guilty are set
- 7           forth in the written plea agreement or on the record; and
- 8           5. That there is a factual basis for Defendant's plea.

9           **B. I RECOMMEND:**

- 10          ☒ That the District Court accept Defendant's plea of guilty to Count 1 of
- 11          the Indictment, charging a violation of 18 U.S.C. §§ 841(a)(1),
- 12          Attempted Distribution of a Controlled Substance.
- 13          ☒ That the District Court accept Defendant's admission to the Criminal
- 14          Forfeiture Allegation.

15          **D. IT IS ORDERED:**

16          That a Presentence Report be prepared by the U.S. Probation Office.

- 17          1. Any objection(s) to the presentence report shall be filed no later than
- 18          fourteen (14) days after receiving the presentence report (Fed. R. Crim.
- 19          P. 32(f)(1)); and
- 20          2. Any sentencing memorandum shall be filed no later than seven (7)
- 21          business days prior to sentencing (D.Ak. L.Cr.R. 32.1(d)).

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1 The Sentencing hearing will be before the United States District Judge. The  
2 Court excludes time from February 26, 2024, until the time of sentencing pursuant  
3 to 18 U.S.C. §3161(h)(1)(G) on the grounds that the District Judge will be considering  
4 the proposed plea agreement.

5 DATED this 26th of February 2024, at Anchorage, Alaska.

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7   
8 KYLE F. PEARSON  
United States Magistrate Judge  
District of Alaska

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10 This Report and Recommendation is being issued as a Final Report and  
11 Recommendation. Pursuant to Fed. R. Crim. P. 59(b)(3), any objections will be  
12 considered by the District Court Judge who will accept, reject, or modify the  
13 recommendation following de novo review. Any objections must be filed within  
14 seven (7) days from the date of service of this Report and Recommendation. The  
15 shortened objection deadline is due to the request of the District Court Judge. Fed.  
16 R. Crim. P. 59(b)(2) and D. Ak. L.M.R. 6(a) authorizes the court to alter the standard  
17 objection deadlines.

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19 Reports and recommendations are not appealable orders. Any notice of appeal  
20 pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the District  
21 Court's judgment.<sup>2</sup>

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28 <sup>2</sup> See *Hilliard v. Kincheloe*, 796 F.2d 308 (9th Cir. 1986).